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August 11, 2020

By ECF

Honorable Richard M. Berman
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

USDC SDNY
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DATE FILED: 9/3/2020

Re: United States v. Charleton Hightower, 20 Cr. 303 (RMB)

Honorable Judge Berman:

I write with the consent of the Government to respectfully request access to the records and papers used in connection with the constitution of the Master and Qualified Jury Wheels in the United States District Court for the Southern District of New York, pursuant to the Fifth and Sixth Amendments to the United States Constitution and the Jury Selection and Service Act ("JSSA"), 28 U.S.C. §§ 1867(a) and (f). This Court previously stayed any relevant deadlines for Mr. Hightower to challenge his indictment under the JSSA in light of parallel litigation taking place in United States v. Balde, 20 Cr. 281 (KPF), and other cases currently pending in this district. See ECF No. 14; ECF No. 18.

Since my initial letter requesting a stay on June 17, 2020, ECF No. 12, Judge Failla has ruled upon the Balde parties' disputes regarding the specific records requested by the defense, as well as their dispute concerning the existence and scope of a protective order. See Balde, 20 Cr. 281 (KPF), ECF No. 30 and 36. In Balde, the Government acknowledged that, once those disputes were resolved, it would be able to produce the same records to subsequent defendants, including Mr. Hightower, without issue.¹

Therefore, I now request production, in the case of Mr. Hightower, of the same records that Judge Failla has ordered to be produced in Balde. See Exhibit A,

¹ See Balde, 20 Cr. 281, ECF No. 29 ("As this Court is aware, similar requests have been made in multiple cases in this District, including . . . United States v. Hightower, 20 Cr. 303 (RMB) To the extent the Government is ordered to produce all or some of the records produced in this case in other cases, the Government can facilitate those productions without further burdening the Jury Administrator or requiring that she make multiple, duplicative productions.").

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Souleymane Balde's Request for Master and Qualified Jury Wheel Records, 20 Cr. 281, ECF No. 14; Exhibit B, Endorsed Letter Regarding Souleymane Balde's Request for Records, 20 Cr. 281, ECF No. 30. I also consent to the entry of a protective order in accordance with Judge Failla's ruling in Balde. See Exhibit C, Government's Proposed Protective Order, 20 Cr. 281, ECF No. 31; Exhibit D, Endorsed Letter Regarding Protective Order, 20 Cr. 281, ECF No. 36. Should the Court approve my request for records, the parties will submit a proposed protective order for the Court's review.

As noted, the Government consents to these requests.

Respectfully submitted,

/s/ Ariel Werner

Ariel Werner

Assistant Federal Defender

CC: AUSA Andrew Rohrbach

Application granted on
consent. Counsel shall submit
a joint proposed protective
order prior to any production.

SO ORDERED:

Date: 9/3/2020

Richard M. Berman

Richard M. Berman, U.S.D.J.